

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
OHIO POWER COMPANY TO UPDATE ITS  
TARIFF.

CASE NO. 20-963-EL-ATA

## FINDING AND ORDER

Entered in the Journal on April 17, 2024

### I. SUMMARY

{¶ 1} The Commission grants the application of Ohio Power Company to update its Cogeneration/Small Power Production tariff consistent with this Finding and Order.

### II. DISCUSSION

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric distribution utility (EDU), as defined by R.C. 4928.01(A)(6), and a public utility, as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} Ohio Adm.Code 4901:1-10-34 outlines the requirements for EDU compliance with the Public Utility Regulatory Policies Act of 1978 (PURPA). Among other things, Ohio Adm.Code 4901:1-10-34 addresses the implementation of a standard market-based rate for electricity transactions between EDUs and qualifying facilities, as provided by PURPA, specifically for small power production (SPP) facilities and cogeneration facilities.

{¶ 4} In accordance with the Energy Policy Act of 2005, an electric utility is no longer required to purchase electric energy from a qualified facility (QF) if that QF has nondiscriminatory access to wholesale markets. Pursuant to Order 872, the Federal Energy Regulatory Commission (FERC) lowered the threshold for an SPP to five megawatts (MW). SPPs over 5 MW are presumed to have nondiscriminatory access to the wholesale market. FERC maintained the 20 MW threshold for cogeneration. Cogeneration facilities greater

than 20 MW and SPP facilities greater than 5 MW can rebut the presumption of access due to operational characteristics, transmission constraints, and/or other factors.<sup>1</sup>

{¶ 5} On March 31, 2021, AEP Ohio petitioned FERC to terminate the requirement under 18 CFR 292.303(a) to enter into new contracts or obligations to purchase electric energy and capacity from SPP QFs with a net capacity over 5 MW. On June 29, 2021, FERC granted the Company's motion, effective March 31, 2021. *In re Appalachian Power Co., et al.*, 175 FERC ¶ 61,257 (June 29, 2021).

{¶ 6} The Commission last approved an update of the Company's Cogeneration/SPP tariff in June 2022, which established the credit of 4.911¢ per kWh during winter (October through May) and 3.926¢ per kWh during summer (June through September) for qualifying customers with facilities of 100 kW or less. *In re AEP Ohio*, Case No. 20-963-EL-ATA, Finding and Order (June 29, 2022).

{¶ 7} On May 26, 2023, AEP Ohio filed an application to revise its tariff to update the locational marginal price (LMP) data for May 1, 2022, through April 30, 2023, consistent with the requirements of Ohio Adm.Code 4901:1-10-34. For qualifying customers with facilities of 100 kW or less, AEP Ohio requests its tariff rates be updated as shown below:

	Current credit (¢/kWh)	Proposed credit (¢/kWh)	Difference
<b>Winter</b>	4.911	5.266	.355
<b>Summer</b>	3.926	8.742	4.816

{¶ 8} On March 6, 2024, Staff filed its review and recommendation regarding AEP Ohio's proposed updates to its tariff. Staff reviewed the Company's proposed changes and

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<sup>1</sup> *Qualifying Facility Rates and Requirements Implementation Issues Under the Public Utility Regulatory Policies Act of 1978*, Order No. 872, 172 FERC ¶ 61,041 (2020).

verified the underlying data. Accordingly, Staff recommends that the Commission approve the application to amend the tariff as presented by the Company in its application.

### III. COMMISSION CONCLUSION

{¶ 9} Upon review of AEP Ohio's application to amend its tariff and the Staff's review and recommendation, the Commission finds that the amendments to AEP Ohio's tariff are consistent with FERC's PURPA regulations and the application to amend the Cogeneration/SPP tariff should be approved. Finally, the Commission finds that no hearing is required in this case.

{¶ 10} Further, the Commission directs that AEP Ohio file any future application to amend or update its Cogeneration/SPP tariff be filed in a new EL-ATA case.

### IV. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That AEP Ohio's application for tariff amendment be approved, consistent with this Finding and Order. It is, further,

{¶ 13} ORDERED, That AEP Ohio is authorized to file its tariffs, in final form, consistent with this Finding and Order. AEP Ohio shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 14} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariffs are filed with the Commission. It is, further,

{¶ 15} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 16} ORDERED, That AEP Ohio file any future application to amend or update its Cogeneration/SPP tariff be filed in a new EL-ATA case. It is, further,

{¶ 17} ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Daniel R. Conway  
Lawrence K. Friedeman  
John D. Williams

GNS/mef

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**Case No(s). 20-0963-EL-ATA**

Summary: Finding & Order granting the application of Ohio Power Company to update its Cogeneration/Small Power Production tariff consistent with this Finding and Order. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.